

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ISAIAH WILSON,

No. 2:18-cv-00029-YY

Plaintiff,

ORDER

v.

JERI TAYLOR, et. al.,

Defendants.

HERNÁNDEZ, District Judge:

Magistrate Judge You issued a Findings and Recommendation [22] on February 11, 2019, in which she recommends that the Court grant Defendants' Motion for Summary Judgment [15] and dismiss this case with prejudice. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, the Court is relieved of its obligation to review the record *de novo*. *United States v.*

Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988) (*de novo* review required only for portions of Magistrate Judge’s report to which objections have been made).

The Court has reviewed the legal principles *de novo* and notes that the nature of the suit, not the actions of Defendants, determines whether Defendants were acting in their official or personal capacities. *See Hafer v. Melo*, 502 U.S. 21, 26 (1991) (Official capacity “is best understood as a reference to the capacity in which the state officer is sued, not the capacity in which the officer inflicts the alleged injury.”). Plaintiff, proceeding *pro se*, is seeking damages against Defendants on his tort and constitutional claims. Compl., ECF 2. The Court therefore declines to find that Defendants were acting in their official capacities. *Mitchell v. Wash.*, 818 F.3d 436, 442 (9th Cir. 2016) (“[W]hen a plaintiff sues a defendant for damages, there is a presumption that he is seeking damages against the defendant in his personal capacity.”). The Court otherwise finds no error and agrees with Judge You’s recommendation that the Court dismiss this case with prejudice.

CONCLUSION

The Court ADOPTS Magistrate Judge You’s Findings and Recommendation [22]. Defendants’ Motion for Summary Judgment [15] is GRANTED, and this case is dismissed with prejudice.

IT IS SO ORDERED.

DATED this 23 day of April, 2019


MARCO A. HERNÁNDEZ
United States District Judge